

Amendment and Response

Applicant: Mike C. Robinson et al.

Serial No.: 10/061,619

Filed: February 1, 2002

Docket No.: 100200201-1

Title: SECURE INITIALIZATION OF COMMUNICATION WITH A NETWORK RESOURCE**REMARKS**

The following Remarks are made in response to the Non-Final Office Action mailed May 23, 2006, in which claims 1-51 were rejected. With this amendment, claim 51 has been amended to correct a typographical error. Claims 1-51, therefore, remain pending in the application and are presented for reconsideration and allowance.

Claims Objection

Claim 25 is objected to because of the following informalities: a period is required after the word "Talk" to indicate the end of the claim.

With this Amendment, claim 25 has been amended to add a period "." after the word "Talk" to indicate the end of the claim. Applicant, therefore, respectfully requests that the objection to claim 25 be reconsidered and withdrawn.

Claim Rejections under 35 U.S.C. § 103

Claims 1, 2, 4-5, 7, 9-10, 12-14, 16-17, 41-42, and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman-Amuah US Patent Application Publication No. 2003/0058277 in view of Nonoyama et al. US Patent Application Publication No. 2002/0145748 in further view of Pauschinger US Patent No. 6,041,704.

Claims 3, 6, 8, 11, 15, 18, 19-25, 43, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman-Amuah in view of Nonoyama, in view of Pauschinger, in further view of Applicant's admitted prior art in the background invention.

Claims 26-40 and 47-51 are rejected under 35 U.S.C. as being unpatentable over Bowman-Amuah, in view of Nonoyama, in view of Pauschinger, in further view of Nyman et al. US Patent Application Publication No. 2003/0037033.

The earliest effective date of the Nonoyama et al. U.S. Patent Application Publication No. 2002/0145748 is the filing date of October 29, 2001 which is prior to the filing date of February 1, 2002 of the present patent application. Applicant notes that the effective date of a domestic patent when used as a reference is not the foreign filing date to which the application for patent may have been entitled under 35 U.S.C. 119(a) during examination. *In re Hilmer*, 359 F.2d 859, 149 USPQ 480 (CCPA 1966). Therefore, the date to be overcome under 37 CFR 1.131 is the effective U.S. filing date, not the foreign priority date. Thus,

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when a U.S. patent or U.S. patent application publication reference is entitled to claim the benefit of an earlier filed application, its effective filing date is determined under 35 U.S.C. 102(e). See MPEP § 715 III(A), § 706.02(a), § 706.02(f)(1), and § 2136 through § 2136.03.

Accompanying this Amendment and Response is a Declaration of Prior Invention under 37 C.F.R. 1.131 to establish conception of the subject matter of the present patent application in the United States prior to the earliest effective date of October 29, 2001 of the Nonoyama Publication coupled with due diligence from a date prior to the earliest effective date of the Nonoyama Publication up to the filing date of the present patent application (i.e., constructive reduction to practice). Applicant, therefore, respectfully requests consideration and entry of the Declaration of Prior Invention under 37 C.F.R. 1.131.

In view of the above, Applicant submits that the Nonoyama et al. U.S. Patent Application Publication No. 2002/0145748 does not qualify as a reference under 35 U.S.C. 102(e) and, therefore, does not qualify as a reference under 35 U.S.C. 103(a). Applicant, therefore, respectfully requests that the rejections of claims 1, 2, 4-5, 7, 9-10, 12-14, 16-17, 41-42, and 44-45 under 35 U.S.C. 103(a), claims 3, 6, 8, 11, 15, 18, 19-25, 43, and 46 under 35 U.S.C. 103(a), and claims 26-40 and 47-51 under 35 U.S.C. 103(a) be reconsidered and withdrawn, and that claims 1-51 be allowed.

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In view of the above, Applicant respectfully submits that pending claims 1-51 are all in a condition for allowance and requests reconsideration of the application and allowance of all pending claims.

Any inquiry regarding this Amendment and Response should be directed to either Nathan Rieth at Telephone No. (208) 396-5287, Facsimile No. (208) 396-3958 or Scott A. Lund at Telephone No. (612) 573-2006, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

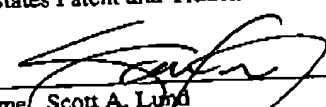
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<p>CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this paper or papers, as described herein, are being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300 on this <u>23rd</u> day of August, 2006.</p> <p>By  Name: <u>Scott A. Lund</u></p>
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